

J. Morgan Philpot (Oregon Bar No. 144811)  
[morgan@jmphilpot.com](mailto:morgan@jmphilpot.com)

**JM PHILPOT LAW, PLLC**

620 East 100 North

Alpine, UT 84004

(801) 891-4499

*Attorney for Plaintiffs*

John M. Pierce (*PHV Admission Forthcoming*)

[jpierce@piercebainbridge.com](mailto:jpierce@piercebainbridge.com)

Ryan J. Marshall (*PHV Admission Pending*)

[rmarshall@piercebainbridge.com](mailto:rmarshall@piercebainbridge.com)

**PIERCE BAINBRIDGE P.C.**

355 S. Grand Avenue, 44<sup>th</sup> Floor,

Los Angeles, CA 90071

(213) 400-0725

(424) 285-4943

*Attorney for Plaintiffs*

Lead Counsel\*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

D. JEANETTE FINICUM; THARA  
TENNEY; TIERRA COLIER; ROBERT  
FINICUM; TAWNY CRANE; ARIANNA  
BROWN; BRITTNEY BECK; MITCH  
FINICUM; THOMAS KINNE; CHALLICE  
FINCH; JAMES FINICUM; DANIELLE  
FINICUM; TEAN FINICUM and the  
ESTATE OF ROBERT LAVOY FINICUM

*Plaintiffs,*

Case No. 2:18-CV-00160-SU

**PLAINTIFFS' NOTICE OF  
MOTION AND MOTION FOR  
LEAVE TO AMEND TO FILE  
SECOND-AMENDED  
COMPLAINT FOR 18 U.S.C §1961  
et seq CLAIM AND TO  
CONTINUE TRIAL DATE;  
THIRD AMENDED COMPLAINT**

v.

**Action Filed: November 8, 2021**

**Time: 6:30 P.M.**

BUREAU OF LAND MANAGEMENT;  
DANIEL P. LOVE; SALVATORE  
LAURO; W. JOSEPH ASTARITA;  
SPECIAL AGENT BM; MICHAEL  
FERRARI; STATE OF OREGON;  
OREGON STATE POLICE; KATHERINE  
BROWN; HARNEY COUNTY; CENTER  
FOR BIOLOGICAL DIVERSITY, and the  
UNITED STATES

*Defendants.*

**TO THE ABOVE-NAMED DEFENDANTS AND THEIR ATTORNEYS OF RECORD  
HEREIN:**

PLEASE TAKE NOTICE that on November 8, 2021 at the hour of 6:30 p.m., at the  
above-captioned Court, located at 104 S.W. Dorion, Pendleton, Oregon, the above-named  
Plaintiffs shall and hereby do move:

1. Pursuant to Or. R. Civ. P. 23(A), for an order granting Plaintiffs leave to file a Second-  
Amended Complaint ("SAC").

Pursuant to Or. R. Civ. P. 23(A), Plaintiff hereby provides as follows:

(a) A copy of the proposed SAC is attached.

(b) The previous original complaint, in its entirety, and all of its allegations have been  
completely deleted and replaced with the SAC. The SAC consists of a new caption on the  
first page of the pleading, followed by nine differently pled causes of action, including two

based on Oregon state law and an entirely new cause of action that connects the others. The causes of action based on federal law include (1) the violation of Plaintiff's civil and constitutional rights actionable under 42 U.S.C. 1983, flowing from the Defendants' use of excessive force and deprivation; and (2) Defendants' racketeering, violent, and extortive practices actionable under 18 U.S.C §1961 et seq. A prayer for damages and demand for jury trial follow thereafter. These above-referenced allegations of the SAC completely replace all of the allegations of the original complaint. Or. R. Civ. P. 23(C).

(c) The new RICO claim connects the Defendants' acts and violations of Federal and Oregon state laws thereby making the prior causes of action relevant. The causes of action the SAC are pled differently so as to satisfy this Court's minimum pleading requirements, as referenced in the Court's first order dismissing most of Plaintiffs' claims against Defendants.

The effect of the SAC is (1) to replead, clarify, and clearly state the specific factual allegations supporting the (2) RICO cause of action and constitutional rights violations cited (i.e. use of excessive force, racketeering and corrupt organization acts, deprivation, and conspiracy); and (3) to amend the pleadings on the causes of action that this Court dismissed against the Defendants in the original complaint and integrate those violations and acts under the RICO claim- thus meeting the plead requirements of this Court.

This motion is based on this notice and accompanying amended complaint, upon such matters of which this Court must and may take judicial notice, and upon such other and further oral and documentary evidence as may be presented at the time of the hearing hereon.

DATED: November 19, 2021

/s/ J. Morgan Philpot

J. Morgan Philpot, Esq. OSB  
#144811 Attorney for Plaintiffs

/s/John M. Pierce

John M. Pierce, Esq.  
(PHV Admission Forthcoming)

/s/Ryan Joseph-Gene Marshall

Ryan Joseph-Gene Marshall, Esq.  
(PHV Admission Pending)

*Attorney for Plaintiffs*

**CERTIFICATE OF SERVICE**

I, Morgan Philpot, hereby certify that on this day, November 19, 2021, 2021, I caused a copy of the foregoing document to be served on all counsel through the Court's CM/ECF case filing system.

/s/ J. Morgan Philpot  
J. Morgan Philpot